

REMARKS

Claims 1-43 are pending application. Claims 40-43 are newly added. Claims 2, 7-11, 13, 19-31, 32-33 and 37 are objected to for various informalities. Claims 1, 3, 5, 12 and 15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Kramer (U.S. Pat. No. 4,173,255). Claims 19, 21, 24, 25, 28-30, 32, 33, 36 and 37 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Avramidis (U.S. Pat. No. 4,961,689) in view of Amani (U.S. Pat. No. 4,901,798). Claims 1-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 4, 5, 7, 9, 12, 14, 15, 17, 19, 40-43, 45 and 46 of U.S. Pat. No. 6,497,556. Claims 32-39 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 11, 15, 16, 18 and 25 of U.S. Pat. No. 6,604,910. Claims 20, 22, 23, 26, 27 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of limitations of the base claim and any intervening claims. Applicants respectfully request reconsideration of the Application in view of the amendments and remarks herein.

Claim Objections

Claims 2, 7-11, 13, 19-31, 32-33 and 37 are objected to for various informalities. Claims 2, 7, 13, 19, 24, 33 and 37 are objected to because the recitation of "progressive pump" is said to be inconsistent with the terminology used throughout the specification. Accordingly, to clarify these claims, Applicant has amended the recitations of "progressive pump" to read "progressive cavity pump." Applicant respectfully submits that such amendment is not for reasons of patentability and does not narrow the claim scope, but merely corrects an administrative error.

Claim 32 is objected to citing the recitation of "a pressure sensor operable to determine the fluid pressure associated with the well" being inconsistent with the specification teaching that the pressure sensor determines fluid pressure in a passage and not the well. Applicant submits, however, that because the passage is in communication with the well, the pressure sensor determines a fluid pressure associated with the well and is consistent with the specification. Therefore, Applicant respectfully submits that the claim as submitted is correct, and no amendment is necessary.

Claim 18 is objected to because the recitation of "a valve" in line 2 should be "the valve." Applicant has amended claim 18 to recite "the valve." Applicant respectfully submits that such amendment is not for reasons of patentability, but merely clarifies an administrative error in the claims.

Claim Rejections -35 U.S.C. § 102

Claims 1, 3, 5, 12 and 15 are rejected under 35 U.S.C. § 102(b) as being anticipated by Kramer (U.S. Pat. No. 4,173,255). Independent claim 1, as amended, recites that "movement of the valve relative to the pumping unit causes the pumped fluid to be recirculated from the outlet back into the pumping unit between the outlet and the inlet of the pumping unit." Claim 12 includes a similar limitation. Kramer, however, fails to disclose that the pumped fluid is recirculated into the pumping unit between the outlet and the inlet. Accordingly, Kramer fails to anticipate claim 1, its dependent claims 3 and 5, claim 12 and its dependent claim 15. Applicant respectfully requests withdrawal of the rejections to these claims under 35 U.S.C. § 102(b).

Claim Rejections -35 U.S.C. § 103

Claims 19, 21, 24, 25, 28-30, 32, 33, 36 and 37 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Avramidis (U.S. Pat. No. 4,961,689) in view of Amani (U.S. Pat. No. 4,901,798).

Independent claim 19, as amended, recites "a progressive cavity pump disposed within a well." Independent claim 24 includes a similar limitation. Neither Avramidis nor Amani disclose a progressive cavity pump. Accordingly, the combination of Avramidis and Amani fails to disclose each and every limitation of claim 19, its dependent claim 21, claim 24 and its dependent claims 25 and 28-30. Applicant respectfully requests withdrawal of the rejections to these claims under 35 U.S.C. § 103(a).

Claim 32, as amended, recites "a controller coupled to the pumping unit and operable to decrease a flow rate of the pumping unit to a decreased flow rate in response to a decrease in fluid pressure. Claim 36 includes a similar limitation. Neither Avramidis nor Amani disclose decreasing the flow rate to a decreased flow rate in response to a decrease in fluid pressure, much less a controller a operable to do so. Accordingly, the combination of Avramidis and Amani fails

to disclose each and every limitation of claim 32, its dependent claim 33, claim 36 and its dependent claim 37. Applicant respectfully requests withdrawal of the rejections to these claims under 35 U.S.C. § 103(a).

Double Patenting

Claims 1-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 4, 5, 7, 9, 12, 14, 15, 17, 19, 40-43, 45 and 46 of U.S. Pat. No. 6,497,556. Claims 32-39 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3, 11, 15, 16, 18 and 25 of U.S. Pat. No. 6,604,910. Although Applicants dispute that the claims of the present Application are not patentably distinct from the noted claims of U.S. Pat. Nos. 6,497,556 and 6,604,910, in the interests of expediting prosecution, Applicants are submitting a terminal disclaimer herewith. Accordingly, Applicants respectfully request withdrawal of the obviousness-type double patenting rejections to these claims.

Conclusion

In view of the above, and for other reasons clearly apparent, Applicants respectfully submit that the Application is in condition for allowance, and request such a Notice. If the present Application is not allowed and/or if one or more of the rejections is maintained, Applicants hereby request a telephone conference with the Examiner and further request that the Examiner contact the undersigned attorney to schedule a telephone conference.

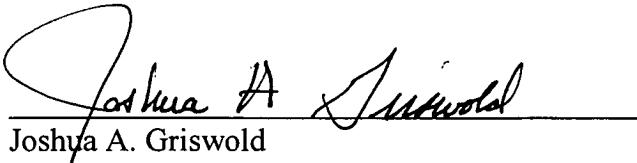
Enclosed is a check in the amount of \$432.00 to cover excess claim fees (\$212.00), Terminal Disclaimer Fee (\$110.00) and Petition for Extension of Time fee (\$110.00). Please apply any deficiencies or any other required fees or any credits to deposit account 06-1050, referencing the attorney docket number shown above.

Applicant : Joseph A. Zupanick et al.
Serial No. : 10/627,551
Filed : July 25, 2003
Page : 14 of 14

Attorney's Docket No.: 17601-011002 / 067083.0232

Respectfully submitted,

Date: 11/29/04



Joshua A. Griswold
Reg. No. 46,310

Fish & Richardson P.C.
5000 Bank One Center
1717 Main Street
Dallas, Texas 75201
Telephone: (214) 292-4034
Facsimile: (214) 747-2091

90100706.doc